

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1555 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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TRUSTEES OF MOTA GOPNATHJI TEMPLE JOINT CHARITABLE TRUST

Versus

BIJAL ARJANBHAI

Appearance:

MR JT TRIVEDI for the Petitioners .

MS KM SHAH, for the Respondent.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 21/07/98

ORAL JUDGEMENT

Rule. Ms K.M.Shah , learned Advocate waives service of the Rule on behalf of the respondent. At the request of the learned Advocates, this application is taken up for final hearing to-day.

The petitioners in this revision application have challenged the order passed below application, Ex.132, by the learned Civil Judge (J.D.) Talaja rejecting the application filed by the petitioners for joining the trustees as party-defendants in the suit. The learned trial Judge rejected the said application only on the ground that earlier order below application, Ex.103 was passed for joining the trustees in the proceedings and, therefore, no further orders are required to be passed. Reading the application, Ex.132, it transpires that the names of the trustees shown in paragraph 2 of the

application, who have been permitted to be joined as plaintiffs vide order passed below Ex.103 , have not shown their willingness to be joined as plaintiffs and, therefore, the petitioner-plaintiffs merely requested the Court to transcribe them as defendants. Similarly in paragraph 3 , the petitioner-plaintiffs wanted to join the persons shown at Sr. Nos.7 to 11 as plaintiffs in the proceedings. Now, whether these persons are necessary parties to the proceedings or not and whether permission to join them is required to be obtained from the Charity Commissioner or the District Court is not made clear in the impugned order. It is contended on behalf on behalf of the respondent by Ms K.M.Shah that the petitioners will have to seek permission from the Charity Commissioner. Since the impugned order does not say anything about the same, it is not possible for me to accept the submissions made before me. In any case, the learned Civil Judge has obviously committed an error in passing the order by stating that he has already decided this question while passing order below application, Ex.103.

In the result, this revision application is allowed. The order dated 13-8-97 passed below application , Ex.132, by the learned Civil Judge (J.D.),Talaja, is quashed and set aside and the learned Civil Judge (J.D.) Talaja is directed to re-hear application, Ex.132, and pass appropriate orders after hearing the parties. It will be open to the petitioners to elaborate the application, Ex.132 and equally it will be open to the respondent to file objections against application, Ex.132. Rule is made absolute to the aforesaid extent with no order as to costs.

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